

LUCAS J. GAFFNEY
Nevada Bar 12373
ORONOS & ERICSSON LLC
700 SOUTH 3RD STREET
Las Vegas, Nevada 89101
Telephone: (702) 878-2889
Facsimile: (702) 522-1542
luke@oronozlawyers.com
Attorney for Daniel Barnes

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,
Plaintiff,
vs.
DANIEL BARNES,
Defendant.

CASE NO: 2:13-CR-423-JCM-GWF
**UNOPPOSED MOTION TO CONDUCT A
PRE-PLEA PRESENTENCE
INVESTIGATION REPORT AND
PROPOSED ORDER**

COMES NOW, DANIEL BARNES, by and through his attorney of record, LUCAS J. GAFFNEY, ESQ., of the law firm ORONOS & ERICSSON LLC, and hereby moves this Honorable Court to order the United States Department of Parole & Probation to conduct a pre-plea presentence investigation report of DANIEL BARNES as soon as possible.

This request is based upon the pleadings and papers on file herein, the attached Memorandum of Points and Authorities, and any oral argument the Court may entertain.

Dated this 8th day of April, 2015.

/s/ Lucas J. Gaffney
LUCAS J. GAFFNEY, ESQ.
Nevada Bar No. 12373
700 South Third Street
Las Vegas, NV 89101
Attorney for Daniel Barnes

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. STATEMENT OF FACTS**

3 A federal grand jury returned an Indictment on October 15, 2014, charging Defendant
4 with one count of Transportation of a Minor for Prostitution, in violation of 18 U.S.C. §
5 2423(a); Trafficking of a Child, in violation of 18 U.S.C. § 1591(a)(1); Sexual Exploitation of
6 Children, in violation of 18 U.S.C. § 2251(a).
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8 **II. LEGAL ARGUMENT**

9 A presentence investigation may be initiated prior to entry of a guilty plea or nolo
10 contendere or prior to the establishment of guilt. *See generally* Fed. R. Crim. P. 32.
11

12 Counsel requires a pre-plea presentence investigation report to determine whether Mr.
13 Barnes is potentially eligible for Career Offender or Armed Career Criminal.

14 Counsel understands that Mr. Barnes has prior felony convictions. Counsel cannot
15 accurately calculate whether Mr. Barnes qualifies as a Career Offender pursuant to U.S.S.G. §
16 4B1.1, or Armed Career Criminal pursuant to U.S.S.G. § 4B1.4, without the information that
17 would be provided in the Pre-Plea PSR. Mr. Barnes' eligibility for Career Offender or
18 Armed Career Criminal will drastically impact his sentencing exposure, potential negotiations,
19 and his decision as to how he should proceed in this matter. In addition, the timing of Mr.
20 Barnes' prior convictions could impact his Guideline range and criminal history score. A pre-
21 plea presentence investigation report will promote judicial economy and could greatly
22 expedite the manner in which this case is resolved. Furthermore, Mr. Barnes consents to the
23 pre-plea presentence investigation.
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1 Therefore, undersigned counsel respectfully requests this Court issue an Order directing
2 the United States Department of Parole & Probation to conduct a pre-plea presentence
3 investigation report of Mr. Barnes as soon as possible.
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5 **III. CONCLUSION**

6 Based on the foregoing, Defendant asks this Court to grant his Motion to Conduct a
7 Pre-Plea Presentence Investigation Report. Defendant further requests this Court order the
8 United States Department of Parole & Probation to conduct a pre-plea presentence
9 investigation report of Mr. Daniel Barnes as soon as possible.
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11 Dated this 8th day of April, 2015.

12 /s/ Lucas J. Gaffney
13 LUCAS J. GAFFNEY, ESQ.
14 Nevada Bar No. 12373
15 700 South Third Street
16 Las Vegas, NV 89101
17 *Attorney for Daniel Barnes*
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DISTRICT OF NEVADA

Defendant.

ORDER

James C. Mahan
UNITED STATES DISTRICT JUDGE

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That on April 8, 2015, I served an electronic copy of the above and foregoing UNOPPOSED MOTION TO CONDUCT A PRE-PLEA PRESENTENCE INVESTIGATION REPORT AND PROPOSED ORDER by electronic service (ECF) to the person(s) named below:

CRANE M. POMERANTZ
Assistant United States Attorney
333 Las Vegas Blvd. South, #5000
Las Vegas, NV 89101
Counsel for United States

/s/ Rachael Stewart
Employee of the Oronoz & Ericsson LLC